

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Environmental Protection Act is amended by changing Section 22.57 as follows:

(415 ILCS 5/22.57)

Sec. 22.57. Perchloroethylene in drycleaning.

(a) For the purposes of this Section:

"Drycleaning" means the process of cleaning clothing, garments, textiles, fabrics, leather goods, or other like articles using a nonaqueous solvent.

"Drycleaning machine" means any machine, device, or other equipment used in drycleaning.

"Drycleaning solvents" means solvents used in drycleaning.

"Perchloroethylene drycleaning machine" means a drycleaning machine that uses perchloroethylene.

"Primary control system" means a refrigerated condenser or an equivalent closed-loop vapor recovery system that reduces the concentration of perchloroethylene in the recirculating air of a perchloroethylene drycleaning machine.

"Refrigerated condenser" means a closed-loop vapor recovery system into which perchloroethylene vapors are introduced and trapped by cooling below the dew point of the

perchloroethylene.

"Secondary control system" means a device or apparatus that reduces the concentration of perchloroethylene in the recirculating air of a perchloroethylene drycleaning machine at the end of the drying cycle beyond the level achievable with a refrigerated condenser alone.

(b) Beginning January 1, 2013:

(1) Perchloroethylene drycleaning machines in operation on the effective date of this Section that have a primary control system but not a secondary control system can continue to be used until the end of their useful life, provided that perchloroethylene drycleaning machines that do not have a secondary control system cannot be operated at a facility other than the facility at which they were located on the effective date of this Section.

(2) Except as allowed under paragraph (1) of subsection (b) of this Section, no person shall install or operate a perchloroethylene drycleaning machine unless the machine has a primary control system and a secondary control system.

(c) ~~No~~ ~~Beginning January 1, 2014,~~ no person shall operate a drycleaning machine unless all of the following are met:

(1) During the operation of any perchloroethylene drycleaning machine, a person who has successfully completed all continuing education requirements adopted by the Board pursuant to Section 12 of the Drycleaner

Environmental Response Trust Fund Act ~~with the following training~~ is present at the facility where the machine is located. ÷

~~(A) Successful completion of an initial environmental training course that is approved by the Dry Cleaner Environmental Response Trust Fund Council, in consultation with the Agency and representatives of the drycleaning industry, as providing appropriate training on drycleaning best management practices, including, but not limited to, reducing solvent air emissions, reducing solvent spills and leaks, protecting groundwater, and promoting the efficient use of solvents.~~

~~(B) Once every 4 years after completion of the initial environmental training course, successful completion of a refresher environmental training course that is approved by the Dry Cleaner Environmental Response Trust Fund Council, in consultation with the Agency and representatives of the drycleaning industry, as providing (i) appropriate review and updates on drycleaning best management practices, including, but not limited to, reducing solvent air emissions, reducing solvent spills and leaks, protecting groundwater, and promoting the efficient use of solvents, and (ii) information on drycleaning solvents, technologies, and alternatives~~

~~that do not utilize perchloroethylene.~~

(2) For drycleaning facilities where one or more perchloroethylene drycleaning machines are used, proof of successful completion of all the training required by the Board pursuant to Section 12 of the Drycleaner Environmental Response Trust Fund Act ~~under paragraph (1) of subsection (c) of this Section~~ is maintained at the drycleaning facility. Proof of successful completion of the training must be made available for inspection and copying by the Agency or units of local government during normal business hours. Training used to satisfy paragraph (3) (2) of subsection (b) (d) of Section 60 45 of the Drycleaner Environmental Response Trust Fund Act may also be used to satisfy training requirements under paragraph (1) of subsection (c) of this Section to the extent that the training ~~it~~ meets the requirements of the Board rules ~~paragraph (1) of subsection (c) of this Section~~.

(3) All of the following secondary containment measures are in place:

(A) There is a containment dike or other containment structure around each machine, item of equipment, drycleaning area, and portable waste container in which any drycleaning solvent is utilized, which shall be capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container. The containment

dike or other containment structure shall be capable of at least the following: (i) containing a capacity of 110% of the drycleaning solvent in the largest tank or vessel within the machine; (ii) containing 100% of the drycleaning solvent of each item of equipment or drycleaning area; and (iii) containing 100% of the drycleaning solvent of the largest portable waste container or at least 10% of the total volume of the portable waste containers stored within the containment dike or structure, whichever is greater. Petroleum underground storage tank systems that are upgraded in accordance with USEPA upgrade standards pursuant to 40 CFR Part 280 for the tanks and related piping systems and use a leak detection system approved by the USEPA or the Agency are exempt from this subparagraph (A).

(B) Those portions of diked floor surfaces on which a drycleaning solvent may leak, spill, or otherwise be released have been sealed or otherwise rendered impervious.

(C) All chlorine-based drycleaning solvent is delivered to the drycleaning facility by means of closed, direct-coupled delivery systems. ~~The Dry Cleaner Environmental Response Trust Fund Council may adopt rules specifying methods of delivery of solvents other than chlorine based solvents to drycleaning~~

~~facilities. Solvents other than chlorine-based solvents must be delivered to drycleaning facilities in accordance with rules adopted by the Dry Cleaner Environmental Response Trust Fund Council.~~

(d) (Blank). ~~Manufacturers of drycleaning solvents or other cleaning agents used as alternatives to perchloroethylene drycleaning that are sold or offered for sale in Illinois must, in accordance with Agency rules, provide to the Agency sufficient information to allow the Agency to determine whether the drycleaning solvents or cleaning agents may pose negative impacts to human health or the environment. These alternatives shall include, but are not limited to, drycleaning solvents or other cleaning agents used in solvent-based cleaning, carbon dioxide based cleaning, and professional wet cleaning methods. The information shall include, but is not limited to, information regarding the physical and chemical properties of the drycleaning solvents or cleaning agents and toxicity data. No later than July 1, 2015, the Agency shall adopt in accordance with the Illinois Administrative Procedure Act rules specifying the information that manufacturers must submit under this subsection (d). The rules must include, but shall not be limited to, a deadline for submission of the information to the Agency. No later than July 1, 2018, the Agency shall post information resulting from its review of the drycleaning solvents and cleaning agents on the Agency's website.~~

~~(e) (Blank). No later than January 1, 2016, the Agency shall submit to the General Assembly a report on the impact to groundwater from newly discovered releases of perchloroethylene from any source in this State. Depending on the nature and scope of any releases that have impacted groundwater, the report may include, but shall not be limited to, recommendations for reducing or eliminating impacts to groundwater from future releases.~~

(Source: P.A. 97-1057, eff. 1-1-13.)

Section 10. The Drycleaner Environmental Response Trust Fund Act is amended by changing Sections 5, 10, 25, 40, 50, 55, 60, 65, and 69, and by adding Sections 69.5 and 77 as follows:

(415 ILCS 135/5)

Sec. 5. Definitions. As used in this Act:

~~(a)~~ "Active drycleaning facility" means a drycleaning facility actively engaged in drycleaning operations and licensed under Section 60 of this Act.

~~(b)~~ "Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

~~(c)~~ "Claimant" means an owner or operator of a drycleaning facility who has applied for reimbursement from the remedial account or who has submitted a claim under the insurance account with respect to a release.

~~(d)~~ "Council" means the Drycleaner Environmental Response Trust Fund Council.

~~(e)~~ "Drycleaner Environmental Response Trust Fund" or "Fund" means the fund created under Section 10 of this Act.

~~(f)~~ "Drycleaning facility" means a facility located in this State that is or has been engaged in drycleaning operations for the general public, other than ~~a~~:

(1) a facility located on a United States military base;

(2) an industrial laundry, commercial laundry, or linen supply facility;

(3) a prison or other penal institution that engages in drycleaning only as part of a Correctional Industries program to provide drycleaning to persons who are incarcerated in a prison or penal institution or to resident patients of a State-operated mental health facility;

(4) a not-for-profit hospital or other health care facility; or a

(5) a facility located or formerly located on federal or State property.

~~(g)~~ "Drycleaning operations" means drycleaning of apparel and household fabrics for the general public, as described in Standard Industrial Classification Industry No. 7215 and No. 7216 in the Standard Industrial Classification Manual (SIC) by the Technical Committee on Industrial Classification.

~~(h)~~ "Drycleaning solvent" means any and all nonaqueous solvents, including but not limited to a chlorine-based or petroleum-based formulation or product, including green solvents, that are used as a primary cleaning agent in drycleaning operations.

~~(i)~~ "Emergency" or "emergency action" means a situation or an immediate response to a situation to protect public health or safety. "Emergency" or "emergency action" does not mean removal of contaminated soils, recovery of free product, or financial hardship. An "emergency" or "emergency action" would normally be expected to be directly related to a sudden event or discovery and would last until the threat to public health is mitigated.

~~(j)~~ "Groundwater" means underground water that occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than the atmospheric pressure.

~~(k)~~ "Inactive drycleaning facility" means a drycleaning facility that is not being used for drycleaning operations and is not registered under this Act.

~~(l)~~ "Maintaining a place of business in this State" or any like term means (1) having or maintaining within this State, directly or through a subsidiary, an office, distribution facility, distribution house, sales house, warehouse, or other place of business or (2) operating within this State as an agent or representative for a person or a person's subsidiary

engaged in the business of selling to persons within this State, irrespective of whether the place of business or agent or other representative is located in this State permanently or temporary, or whether the person or the person's subsidiary engages in the business of selling in this State.

~~(m)~~ "No Further Remediation Letter" means a letter provided by the Agency pursuant to Section 58.10 of Title XVII of the Environmental Protection Act.

~~(n)~~ "Operator" means a person or entity holding a business license to operate a licensed drycleaning facility or the business operation of which the drycleaning facility is a part.

~~(o)~~ "Owner" means (1) a person who owns or has possession or control of a drycleaning facility at the time a release is discovered, regardless of whether the facility remains in operation or (2) a parent corporation of the person under item (1) of this subdivision.

~~(p)~~ "Parent corporation" means a business entity or other business arrangement that has elements of common ownership or control or that uses a long-term contractual arrangement with a person to avoid direct responsibility for conditions at a drycleaning facility.

~~(q)~~ "Person" means an individual, trust, firm, joint stock company, corporation, consortium, joint venture, or other commercial entity.

~~(r)~~ "Program year" means the period beginning on July 1 and ending on the following June 30.

~~(s)~~ "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or dispersing of drycleaning solvents from a drycleaning facility to groundwater, surface water, or subsurface soils.

~~(t)~~ "Remedial action" means activities taken to comply with Title XVII Sections 58.6 and 58.7 of the Environmental Protection Act and rules adopted by the ~~Pollution Control~~ Board to administer that Title under those Sections.

~~(u)~~ "Responsible party" means an owner, operator, or other person financially responsible for costs of remediation of a release of drycleaning solvents from a drycleaning facility.

~~(v)~~ "Service provider" means a consultant, testing laboratory, monitoring well installer, soil boring contractor, other contractor, lender, or any other person who provides a product or service for which a claim for reimbursement has been or will be filed against the Fund ~~remedial account or insurance account~~, or a subcontractor of such a person.

~~(w)~~ "Virgin facility" means a drycleaning facility that has never had chlorine-based or petroleum-based drycleaning solvents stored or used at the property prior to it becoming a green solvent drycleaning facility.

(Source: P.A. 93-201, eff. 1-1-04.)

(415 ILCS 135/10)

Sec. 10. Drycleaner Environmental Response Trust Fund.

(a) The Drycleaner Environmental Response Trust Fund is

created as a special fund in the State Treasury. Moneys deposited into the Fund shall be used by the Agency ~~solely~~ for the purposes of ~~the Council and for other purposes as provided in~~ this Act. The Fund shall include moneys credited to the Fund under this Act and other moneys that by law may be credited to the Fund. The State Treasurer may invest moneys ~~Funds~~ deposited into the Fund ~~at the direction of the Council~~. Interest, income from the investments, and other income earned by the Fund shall be credited to and deposited into the Fund.

~~Pursuant to appropriation, all moneys in the Drycleaner Environmental Response Trust Fund shall be disbursed by the Agency to the Council for the purpose of making disbursements, if any, in accordance with this Act and for the purpose of paying the ordinary and contingent expenses of the Council. After June 30, 1999, pursuant to appropriation, all moneys in the Drycleaner Environmental Response Trust Fund may be used by the Council for the purpose of making disbursements, if any, in accordance with this Act and for the purpose of paying the ordinary and contingent expenses of the Council.~~

The Fund may be divided into different accounts with different depositories to fulfill the purposes of the Act ~~as determined by the Council~~.

Moneys in the Fund at the end of a State fiscal year shall be carried forward to the next fiscal year and shall not revert to the General Revenue Fund.

(b) The specific purposes of the Fund include, l but are not

limited to, the following:

(1) To establish an account to fund remedial action of drycleaning solvent releases from drycleaning facilities as provided by Section 40.

(2) To establish an insurance account for insuring environmental risks from releases from drycleaning facilities within this State as provided by Section 45.

(c) The State, the General Revenue Fund, and any other Fund of the State, other than the Drycleaner Environmental Response Trust Fund, shall not be liable for a claim or cause of action in connection with a drycleaning facility not owned or operated by the State or an agency of the State. All expenses incurred by the Fund shall be payable solely from the Fund and no liability or obligation shall be imposed upon the State. The State is not liable for a claim presented against the Fund.

(d) The liability of the Fund is limited to the extent of coverage provided by the account under which a claim is submitted, subject to the terms and conditions of that coverage. The liability of the Fund is further limited by the moneys made available to the Fund, and no remedy shall be ordered that would require the Fund to exceed its then current funding limitations to satisfy an award or which would restrict the availability of moneys for higher priority sites.

(e) Nothing in this Act shall be construed to limit, restrict, or affect the authority and powers of the Agency or another State agency or statute unless the State agency or

statute is specifically referenced and the limitation is clearly set forth in this Act.

(f) During each fiscal year, the Agency shall limit its administration of the Fund to no more \$600,000 in administrative expenses. The limitation in this subsection (f) does not apply to costs incurred by the Agency in:

(1) reviewing remedial action under Title XVII of the Environmental Protection Act; or

(2) performing investigative or remedial actions.

(Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

(415 ILCS 135/25)

Sec. 25. Powers and duties of the Agency Council.

(a) The Agency Council shall have all of the general powers reasonably necessary and convenient to carry out ~~its purposes~~ and may perform the following functions, ~~subject to any express limitations contained in this Act,~~ including, but not limited to, the power to:

(1) Take actions and enter into agreements necessary to:

(A) reimburse claimants for eligible remedial action expenses; ~~assist the Agency~~

(B) ~~to~~ protect the environment from releases for which claimants are eligible for reimbursement under this Act by, among other things, performing investigative, remedial, or other appropriate actions

in response to those releases; and

(C) reduce costs associated with remedial actions.

~~, and establish and implement an insurance program.~~

(2) Acquire and hold personal property to be used for the purpose of remedial action.

(3) (Blank). ~~Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of one or more improvements under the terms it determines. The Council may define "improvements" by rule for purposes of this Act.~~

(4) (Blank). ~~Grant a lien, pledge, assignment, or other encumbrance on one or more revenues, assets of right, accounts, or funds established or received in connection with the Fund, including revenues derived from fees or taxes collected under this Act.~~

(5) (Blank). ~~Contract for the acquisition or construction of one or more improvements or parts of one or more improvements or for the leasing, subleasing, sale, or other disposition of one or more improvements in a manner the Council determines.~~

(6) (Blank). ~~Cooperate with the Agency in the implementation and administration of this Act to minimize unnecessary duplication of effort, reporting, or paperwork and to maximize environmental protection within the funding limits of this Act.~~

(7) Except as otherwise provided by law, inspect any

document in the possession of an owner, operator, service provider, or any other person if the document is relevant to a claim for reimbursement under this Section or may inspect a drycleaning facility for which a claim for benefits under this Act has been submitted.

(b) (Blank). ~~The Council shall pre approve, and the contracting parties shall seek pre approval for, a contract entered into under this Act if the cost of the contract exceeds \$75,000. The Council or its designee shall review and approve or disapprove all contracts entered into under this Act. However, review by the Council or its designee shall not be required when an emergency situation exists. All contracts entered into by the Council shall be awarded on a competitive basis to the maximum extent practical. In those situations where it is determined that bidding is not practical, the basis for the determination of impracticability shall be documented by the Council or its designee.~~

(c) The Agency shall, in accordance with Board rules, ~~Council may~~ prioritize the expenditure of funds from the remedial action account whenever it determines that there are not sufficient funds to settle all current claims. In prioritizing, the Agency shall ~~Council may~~ consider, among other things, the following:

- (1) the degree to which human health is affected by the exposure posed by the release;
- (2) the reduction of risk to human health derived from

remedial action compared to the cost of the remedial action;

(3) the present and planned uses of the impacted property; ~~and~~

(4) whether the claimant is currently licensed, insured, and has paid all fees and premiums due under this Act; and

(5) ~~(4)~~ other factors as determined by the Board Council.

(d) The Board may ~~Council shall~~ adopt rules allowing the direct payment from the Fund to a contractor who performs remediation. The rules concerning the direct payment shall include a provision that any applicable deductible must be paid by the drycleaning facility prior to any direct payment from the Fund.

(e) (Blank). ~~The Council may purchase reinsurance coverage to reduce the Fund's potential liability for reimbursement of remedial action costs.~~

(f) The Agency may, in accordance with constitutional limitations, enter at all reasonable times upon any private or public property for the purpose of inspecting and investigating to ascertain possible violations of this Act, any rule adopted under this Act, or any order entered pursuant to this Act.

(g) If the Agency becomes aware of a violation of this Act or any rule adopted under this Act, it may refer the matter to the Attorney General for enforcement.

(h) In calendar years 2021 and 2022 and as deemed necessary by the Director of the Agency thereafter, the Agency shall prepare a report on the status of the Fund and convene a public meeting for purposes of disseminating the information in the report and accepting questions from members of the public on its contents. The reports prepared by the Agency under this subsection shall, at a minimum, describe the current financial status of the Fund, identify administrative expenses incurred by the Agency in its administration of the Fund, identify amounts from the Fund that have been applied toward remedial action and insurance claims under the Act, and list the drycleaning facilities in the State eligible for reimbursement from the Fund that have completed remedial action. The Agency shall make available on its website an electronic copy of the reports required under this subsection.

(Source: P.A. 93-201, eff. 1-1-04.)

(415 ILCS 135/40)

Sec. 40. Remedial action account.

(a) The remedial action account is established to provide reimbursement to eligible claimants for drycleaning solvent investigation, remedial action planning, and remedial action activities for existing drycleaning solvent contamination discovered at their drycleaning facilities.

(b) The following persons are eligible for reimbursement from the remedial action account:

(1) In the case of claimant who is the owner or operator of an active drycleaning facility licensed ~~by the Council~~ under this Act at the time of application for remedial action benefits afforded under the Fund, the claimant is only eligible for reimbursement of remedial action costs incurred in connection with a release from that drycleaning facility, subject to any other limitations under this Act.

(2) In the case of a claimant who is the owner of an inactive drycleaning facility and was the owner or operator of the drycleaning facility when it was an active drycleaning facility, the claimant is only eligible for reimbursement of remedial action costs incurred in connection with a release from the drycleaning facility, subject to any other limitations under this Act.

(c) An eligible claimant requesting reimbursement from the remedial action account shall meet all of the following:

(1) The claimant demonstrates that the source of the release is from the claimant's drycleaning facility.

(2) At the time the release was discovered by the claimant, the claimant and the drycleaning facility were in compliance with the Agency reporting and technical operating requirements.

(3) The claimant reported the release in a timely manner ~~to the Agency~~ in accordance with State law.

(4) The drycleaning facility site is enrolled in the

Site Remediation Program established under Title XVII of the Environmental Protection Act. ~~(Blank).~~

(5) If the claimant is the owner or operator of an active drycleaning facility, the claimant must ensure that ~~has provided to the Council proof of implementation and maintenance of the following pollution prevention measures:~~

(A) All ~~That all~~ drycleaning solvent wastes generated at the ~~a~~ drycleaning facility are ~~be~~ managed in accordance with applicable State waste management laws and rules.

(B) There is no ~~A prohibition on the~~ discharge of wastewater from drycleaning machines, or of drycleaning solvent from drycleaning operations, to a sanitary sewer or septic tank or to the surface or in groundwater.

(C) The ~~That every~~ drycleaning facility has ~~+~~ ~~(I)~~ ~~install~~ a containment dike or other containment structure around each machine, item of equipment, drycleaning area, and portable waste container in which any drycleaning solvent is utilized, which is ~~shall be~~ capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container. The containment dike or other containment structure shall be capable of at least the following: (i) containing a capacity of 110% of the

drycleaning solvent in the largest tank or vessel within the machine; (ii) containing 100% of the drycleaning solvent of each item of equipment or drycleaning area; and (iii) containing 100% of the drycleaning solvent of the largest portable waste container or at least 10% of the total volume of the portable waste containers stored within the containment dike or structure, whichever is greater.

Petroleum underground storage tank systems that are ~~upgraded~~ in compliance ~~accordance~~ with USEPA and State Fire Marshal rules, including, but not limited to, leak detection system rules, ~~upgrade standards pursuant to 40 CFR Part 280 for the tanks and related piping systems and use a leak detection system approved by the USEPA or IEPA~~ are exempt from this secondary containment requirement. ~~and~~

(D) Those ~~(II) seal or otherwise render impervious those~~ portions of diked floor surfaces on which a drycleaning solvent may leak, spill, or otherwise be released are sealed or otherwise impervious.

(E) All ~~(D) A requirement that all~~ drycleaning solvent is ~~shall be~~ delivered to drycleaning facilities by means of closed, direct-coupled delivery systems.

(6) An active drycleaning facility has maintained continuous financial assurance for environmental liability

coverage in the amount of at least \$500,000 at least since the date of award of benefits under this Section or July 1, 2000, whichever is earlier. An uninsured drycleaning facility that has filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that insurance coverage continuously shall be considered to have conformed with the requirements of this subdivision (6). To conform with this requirement the applicant must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period.

(7) The release was discovered on or after July 1, 1997 and before July 1, 2006.

(d) A claimant must have submitted ~~shall submit~~ a completed application form provided by the Council. The application shall contain documentation of activities, plans, and expenditures associated with the eligible costs incurred in response to a release of drycleaning solvent from a drycleaning facility. Application for remedial action account benefits must have been ~~be~~ submitted to the Council on or before June 30, 2005.

(e) Claimants shall be subject to the following deductible requirements, ~~unless modified pursuant to the Council's authority under Section 75:~~

(1) If, by January 1, 2008, an eligible claimant submitting a claim for an active drycleaning facility

completed site investigation and submitted to the Council a complete remedial action plan for the site, then the An
eligible claimant ~~submitting a claim for an active~~
~~drycleaning facility~~ is responsible for the first \$5,000 of
eligible investigation costs and for the first \$10,000 of
eligible remedial action costs incurred in connection with
the release from the drycleaning facility and is only
eligible for reimbursement for costs that exceed those
amounts, subject to any other limitations of this Act. Any
eligible claimant submitting any other claim for an active
drycleaning facility is responsible for the first \$5,000 of
eligible investigation costs and for the first \$15,000 of
eligible remedial action costs incurred in connection with
the release from the drycleaning facility, and is only
eligible for reimbursement for costs that exceed those
amounts, subject to any other limitations of this Act.

(2) If, by January 1, 2008, an eligible claimant
submitting a claim for an inactive drycleaning facility
completed site investigation and submitted to the Council a
complete remedial action plan for the site, then the An
eligible claimant ~~submitting a claim for an inactive~~
~~drycleaning facility~~ is responsible for the first \$10,000
of eligible investigation costs and for the first \$10,000
of eligible remedial action costs incurred in connection
with the release from that drycleaning facility, and is
only eligible for reimbursement for costs that exceed those

amounts, subject to any other limitations of this Act. Any eligible claimant submitting any other claim for an inactive drycleaning facility is responsible for the first \$15,000 of eligible investigation costs and for the first \$15,000 of eligible remedial action costs incurred in connection with the release from the drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of this Act.

(f) Claimants are subject to the following limitations on reimbursement:

(1) Subsequent to meeting the deductible requirements of subsection (e), ~~and pursuant to the requirements of Section 75,~~ reimbursement shall not exceed \$300,000 per active drycleaning facility and \$50,000 per inactive drycleaning facility.

(2) (Blank). ~~A contract in which one of the parties to the contract is a claimant, for goods or services that may be payable or reimbursable from the Council, is void and unenforceable unless and until the Council has found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within this State and has found that the goods or services are necessary for the claimant to comply with Council standards or other applicable regulatory standards.~~

(3) (Blank). ~~A claimant may appoint the Council as an~~

~~agent for the purposes of negotiating contracts with suppliers of goods or services reimbursable by the Fund. The Council may select another contractor for goods or services other than the one offered by the claimant if the scope of the proposed work or actual work of the claimant's offered contractor does not reflect the quality of workmanship required or if the costs are determined to be excessive, as determined by the Council.~~

(4) The Agency Council may require a claimant to obtain and submit 3 bids and may require specific terms and conditions in a contract subject to approval.

(5) The Agency Council may enter into a contract or an exclusive contract with the supplier of goods or services required by a claimant or class of claimants, in connection with an expense reimbursable from the Fund, for a specified good or service at a gross maximum price or fixed rate, and may limit reimbursement accordingly.

(6) Unless emergency conditions exist, a service provider shall obtain the Agency's Council's approval of all remediation work to be reimbursed from the Fund and a ~~the~~ budget for the remediation work before commencing the work. No expense incurred that is above the budgeted amount shall be paid unless the Agency Council approves the expense ~~prior to its being incurred~~. All invoices and bills relating to the remediation work shall be submitted with appropriate documentation, as deemed necessary by the

Agency Council.

(7) Neither the Council, nor the Agency, nor an eligible claimant is responsible for payment for costs incurred that have not been previously approved by the Council, or Agency, unless an emergency exists.

(8) To be eligible for reimbursement from the Fund, costs must be within the range of usual and customary rates for similar or equivalent goods or services, incurred in performance of remediation work approved by the Agency, and necessary to respond to the release for which the claimant is seeking reimbursement from the Fund. The Council may determine the usual and customary costs of each item for which reimbursement may be awarded under this Section. The Council may revise the usual and customary costs from time to time as necessary, but costs submitted for reimbursement shall be subject to the rates in effect at the time the costs were incurred.

(9) If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under this Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts established pursuant to ~~of~~ this Act. ~~If there is a dispute between the claimant and the primary insurance provider, reimbursement~~

~~from the remedial action account may be made to the claimant after the claimant assigns all of his or her interests in the insurance coverage to the Council.~~

(f-5) Costs of corrective action or indemnification incurred by a claimant which have been paid to a claimant under a policy of insurance other than the insurance provided under this Act, another written agreement, or a court order are not eligible for reimbursement. A claimant who receives payment under such a policy, written agreement, or court order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund. Any moneys received by the State under this subsection shall be deposited into the Fund.

(g) The source of funds for the remedial action account shall be moneys allocated to the account by the Agency Council ~~according to the Fund budget approved by the Council.~~

(h) A drycleaning facility will be classified as active or inactive for purposes of determining benefits under this Section based on the status of the facility on the date a claim is filed.

(i) Eligible claimants shall conduct remedial action in accordance with Title XVII of the Site Remediation Program ~~under~~ the Environmental Protection Act and rules adopted under that Act. ~~Part 740 of Title 35 of the Illinois Administrative Code and the Tiered Approach to Cleanup Objectives under Part 742 of Title 35 of the Illinois Administrative Code.~~

(j) Effective January 1, 2012, the owner or operator of an active drycleaning facility that has previously received or is currently receiving reimbursement for the costs of a remedial action, as defined in this Act, shall maintain continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 for that facility until ~~the earlier of (i) January 1, 2030 2020 or (ii) the date the Council determines the drycleaning facility is an inactive drycleaning facility.~~ Failure to comply with this requirement will result in the revocation of the drycleaning facility's existing license and in the inability of the drycleaning facility to obtain or renew a license under Section 60 of this Act.

(k) Effective January 1, 2020, owners and operators of inactive drycleaning facilities that are eligible for reimbursement from the Fund on that date shall, until January 1, 2030, pay an annual \$3,000 administrative assessment to the Agency for the facility. Administrative assessments collected by the Agency under this subsection (k) shall be deposited into the Fund.

(Source: P.A. 96-774, eff. 1-1-10; 97-377, eff. 1-1-12.)

(415 ILCS 135/50)

Sec. 50. Cost recovery; enforcement.

(a) The Agency Council may seek recovery from a potentially responsible party liable for a release that is the subject of a

remedial action and for which the Fund has expended moneys for remedial action. The amount of recovery sought by the Agency Council shall be equal to all moneys expended by the Fund for and in connection with the remediation, including, but not limited to, reasonable attorney's ~~attorneys~~ fees and costs of litigation expended by the Fund in connection with the release.

(b) Except as provided in subsections (c) and (d):

(1) The Agency Council shall not seek recovery for expenses in connection with remedial action for a release from a claimant eligible for reimbursement except for any unpaid portion of the deductible.

(2) A claimant's liability for a release for which coverage is admitted under the insurance account shall not exceed the amount of the deductible, subject to the limits of insurance coverage.

(c) Notwithstanding subsection (b), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (a), if the claimant has not complied with the Environmental Protection Act, ~~and its rules or with~~ this Act, or and its rules adopted under either Act.

(d) Notwithstanding subsection (b), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (a), if the claimant received reimbursement from the Fund through misrepresentation or fraud, and the claimant shall be liable

for the amount of the reimbursement.

(e) Upon reimbursement by the Fund for remedial action under this Act, the rights of the claimant to recover payment from a potentially responsible party are assumed by the Agency Council to the extent the remedial action was paid by the Fund. A claimant is precluded from receiving double compensation for the same injury. A claimant may elect to permit the Agency Council to pursue the claimant's cause of action for an injury not compensated by the Fund against a potentially responsible party, provided the Attorney General or his or her designee determines the representation would not be a conflict of interest.

(f) This Section does not preclude, limit, or in any way affect any of the provisions of or causes of action pursuant to Section 22.2 of the Environmental Protection Act.

(g) Any cost recovery action commenced before July 1, 2020, by the Council, pursuant to this Section, may be prosecuted or continued by the Attorney General on and after that date.

(h) All costs recovered under this Section shall be deposited into the Fund.

(Source: P.A. 90-502, eff. 8-19-97.)

(415 ILCS 135/55)

Sec. 55. Limitation on actions; admissions.

(a) An award or reimbursement made from the Fund ~~by the Council~~ under this Act shall be the claimant's exclusive method

for the recovery of the costs of drycleaning facility remediation.

(b) If a person conducts a remedial action activity for a release at a drycleaning facility site, whether or not the person files a claim under this Act, the claim and remedial action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution or damage.

(Source: P.A. 90-502, eff. 8-19-97.)

(415 ILCS 135/60)

(Section scheduled to be repealed on January 1, 2020)

Sec. 60. Drycleaning facility license.

(a) No ~~On and after January 1, 1998, no~~ person shall operate a drycleaning facility in this State without a license issued by the Council or Agency. Until July 1, 2020, the license required under this subsection shall be issued by the Council. On and after July 1, 2020, the license required under this subsection shall be issued by the Agency.

(b) Beginning July 1, 2020, ~~The Council shall issue~~ an initial or renewal license shall be issued to a drycleaning facility on submission by an applicant of a completed form prescribed by the Agency and Council, proof of payment of the required fee to the Department of Revenue, and, if the drycleaning facility has previously received or is currently receiving reimbursement for the costs of a remedial action, as

defined in this Act, proof of compliance with subsection (j) of Section 40. The Agency shall make available on its website an electronic copy of the required license and license renewal applications. ~~License Beginning January 1, 2013,~~ license renewal application forms must include a certification by the applicant:

(1) that all hazardous waste stored at the drycleaning facility is stored in accordance with all applicable federal and state laws and regulations; ~~and~~

(2) that all hazardous waste transported from the drycleaning facility is transported in accordance with all applicable federal and state laws and regulations; and

(3) that the applicant has successfully completed all continuing education requirements adopted by the Board pursuant to Section 12 of the Drycleaner Environmental Response Trust Fund Act. ~~Also, beginning January 1, 2013,~~ license renewal applications must include copies of all manifests for hazardous waste transported from the drycleaning facility during the previous 12 months or since the last submission of copies of manifests, whichever is longer. ~~If the Council does not receive a copy of a manifest for a drycleaning facility within a 3-year period, or within a shorter period as determined by the Council, the Council shall make appropriate inquiry into the management of hazardous waste at the facility and may share the results of the inquiry with the Agency.~~

(c) ~~The On or after January 1, 2004,~~ the annual fees for licensure are as follows:

(1) \$1,500 ~~\$500~~ for a facility that uses (i) 50 gallons or less of chlorine-based or green drycleaning solvents annually, (ii) 250 or less gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) 500 gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(2) \$2,250 ~~\$500~~ for a facility that uses (i) more than 50 gallons but not more than 100 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 250 gallons but not more 500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 500 gallons but not more than 1,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(3) \$3,000 ~~\$500~~ for a facility that uses (i) more than 100 gallons but not more than 150 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 500 gallons but not more than 750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 1,000 gallons but not more than 1,500 gallons annually of

hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(4) \$3,750 ~~\$1,000~~ for a facility that uses (i) more than 150 gallons but not more than 200 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 750 gallons but not more than 1,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 1,500 gallons but not more than 2,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(5) \$4,500 ~~\$1,000~~ for a facility that uses (i) more than 200 gallons but not more than 250 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,000 gallons but not more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 2,000 gallons but not more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(6) \$5,000 ~~\$1,000~~ for a facility that uses (i) more than 250 gallons but not more than 300 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,250 gallons but not more than 1,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or

(iii) more than 2,500 gallons but not more than 3,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(7) \$5,000 ~~\$1,000~~ for a facility that uses (i) more than 300 gallons but not more than 350 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,500 gallons but not more than 1,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 3,000 gallons but not more than 3,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(8) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 350 gallons but not more than 400 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,750 gallons but not more than 2,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 3,500 gallons but not more than 4,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(9) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 400 gallons but not more than 450 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,000 gallons but not more than 2,250 gallons annually of hydrocarbon-based solvents in a

drycleaning machine equipped with a solvent reclaimer, or (iii) more than 4,000 gallons but not more than 4,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(10) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 450 gallons but not more than 500 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,250 gallons but not more than 2,500 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 4,500 gallons but not more than 5,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(11) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 500 gallons but not more than 550 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,500 gallons but not more than 2,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 5,000 gallons but not more than 5,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(12) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 550 gallons but not more than 600 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,750 gallons but not more than 3,000

gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 5,500 gallons but not more than 6,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(13) \$5,000 ~~\$1,500~~ for a facility that uses (i) more than 600 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 3,000 gallons but not more than 3,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 6,000 gallons of hydrocarbon-based drycleaning solvents annually in a drycleaning machine equipped without a solvent reclaimer.

(14) \$5,000 ~~\$1,500~~ for a facility that uses more than 3,250 gallons but not more than 3,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

(15) \$5,000 ~~\$1,500~~ for a facility that uses more than 3,500 gallons but not more than 3,750 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer.

(16) \$5,000 ~~\$1,500~~ for a facility that uses more than 3,750 gallons but not more than 4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

(17) \$5,000 ~~\$1,500~~ for a facility that uses more than

4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

For purpose of this subsection, the quantity of drycleaning solvents used annually shall be determined as follows:

(1) in the case of an initial applicant, the quantity of drycleaning solvents that the applicant estimates will be used during his or her initial license year. A fee assessed under this subdivision is subject to audited adjustment for that year; or

(2) in the case of a renewal applicant, the quantity of drycleaning solvents actually purchased in the preceding license year.

~~The Council may adjust licensing fees annually based on the published Consumer Price Index - All Urban Consumers ("CPI-U") or as otherwise determined by the Council.~~

(d) A license issued under this Section shall expire one year after the date of issuance and may be renewed on reapplication to the Council and submission of proof of payment of the appropriate fee to the Department of Revenue in accordance with subsections (c) and (e). ~~At least 30 days before payment of a renewal licensing fee is due, the Council shall attempt to:~~

~~(1) notify the operator of each licensed drycleaning facility concerning the requirements of this Section; and~~

~~(2) submit a license fee payment form to the licensed operator of each drycleaning facility.~~

(e) An operator of a drycleaning facility shall submit the appropriate application form provided by the Agency Council with the license fee in the form of cash, credit card, business check, or guaranteed remittance to the Department of Revenue. The Department may accept payment of the license fee under this Section by credit card only if the Department is not required to pay a discount fee charged by the credit card issuer. The license fee payment form and the actual license fee payment shall be administered by the Department of Revenue under rules adopted by that Department.

(f) The Department of Revenue shall issue a proof of payment receipt to each operator of a drycleaning facility who has paid the appropriate fee in cash or by guaranteed remittance, credit card, or business check. However, the Department of Revenue shall not issue a proof of payment receipt to a drycleaning facility that is liable to the Department of Revenue for a tax imposed under this Act. The original receipt shall be presented to the Council by the operator of a drycleaning facility.

(g) (Blank).

(h) The Board Council and the Department of Revenue may adopt rules as necessary to administer the licensing requirements of this Act.

(Source: P.A. 96-774, eff. 1-1-10; 97-332, eff. 8-12-11; 97-377, eff. 1-1-12; 97-663, eff. 1-13-12; 97-813, eff. 7-13-12; 97-1057, eff. 1-1-13.)

(415 ILCS 135/65)

(Section scheduled to be repealed on January 1, 2020)

Sec. 65. Drycleaning solvent tax.

(a) ~~A~~ ~~On and after January 1, 1998,~~ a tax is imposed upon the use of drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of ~~\$10~~ ~~\$3.50~~ per gallon of perchloroethylene or other chlorinated drycleaning solvents used in drycleaning operations, ~~\$2~~ ~~\$0.35~~ per gallon of petroleum-based drycleaning solvent, and \$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$0.35 per gallon. The Board ~~may~~ ~~Council shall~~ determine by rule which products are chlorine-based solvents, which products are petroleum-based solvents, and which products are green solvents. All drycleaning solvents shall be considered chlorinated solvents unless the Board ~~Council~~ determines that the solvents are petroleum-based drycleaning solvents or green solvents.

(b) The tax imposed by this Act shall be collected from the purchaser at the time of sale by a seller of drycleaning solvents maintaining a place of business in this State and shall be remitted to the Department of Revenue under the provisions of this Act.

(c) The tax imposed by this Act that is not collected by a seller of drycleaning solvents shall be paid directly to the

Department of Revenue by the purchaser or end user who is subject to the tax imposed by this Act.

(d) No tax shall be imposed upon the use of drycleaning solvent if the drycleaning solvent will not be used in a drycleaning facility or if a floor stock tax has been imposed and paid on the drycleaning solvent. Prior to the purchase of the solvent, the purchaser shall provide a written and signed certificate to the drycleaning solvent seller stating:

- (1) the name and address of the purchaser;
- (2) the purchaser's signature and date of signing; and
- (3) one of the following:

(A) that the drycleaning solvent will not be used in a drycleaning facility; or

(B) that a floor stock tax has been imposed and paid on the drycleaning solvent.

(e) On January 1, 1998, there is imposed on each operator of a drycleaning facility a tax on drycleaning solvent held by the operator on that date for use in a drycleaning facility. The tax imposed shall be the tax that would have been imposed under subsection (a) if the drycleaning solvent held by the operator on that date had been purchased by the operator during the first year of this Act.

(f) On or before the 25th day of the 1st month following the end of the calendar quarter, a seller of drycleaning solvents who has collected a tax pursuant to this Section during the previous calendar quarter, or a purchaser or end

user of drycleaning solvents required under subsection (c) to submit the tax directly to the Department, shall file a return with the Department of Revenue. The return shall be filed on a form prescribed by the Department of Revenue and shall contain information that the Department of Revenue reasonably requires, but at a minimum will require the reporting of the volume of drycleaning solvent sold to each licensed drycleaner. The Department of Revenue shall report quarterly to the Agency Council ~~Council~~ the volume of drycleaning solvent purchased for the quarter by each licensed drycleaner. Each seller of drycleaning solvent maintaining a place of business in this State who is required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of the tax at the time when he or she is required to file his or her return for the period during which the tax was collected. Purchasers or end users remitting the tax directly to the Department under subsection (c) shall file a return with the Department of Revenue and pay the tax so incurred by the purchaser or end user during the preceding calendar quarter.

Except as provided in this Section, the seller of drycleaning solvents filing the return under this Section shall, at the time of filing the return, pay to the Department the amount of tax imposed by this Act less a discount of 1.75%, or \$5 per calendar year, whichever is greater. Failure to timely file the returns and provide to the Department the data requested under this Act will result in disallowance of the

reimbursement discount.

(g) The tax on drycleaning solvents used in drycleaning facilities and the floor stock tax shall be administered by Department of Revenue under rules adopted by that Department.

(h) No ~~On and after January 1, 1998, no~~ person shall knowingly sell or transfer drycleaning solvent to an operator of a drycleaning facility that is not licensed by the Agency Council under Section 60.

(i) The Department of Revenue may adopt rules as necessary to implement this Section.

(j) If any payment provided for in this Section exceeds the seller's liabilities under this Act, as shown on an original return, the seller may credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules adopted by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the seller, the seller's discount shall be reduced by an amount equal to the difference between the discount as applied to the credit taken and that actually due, and the seller shall be liable for penalties and interest on such difference.

(Source: P.A. 100-1171, eff. 1-4-19.)

(415 ILCS 135/69)

Sec. 69. Civil penalties.

(a) Except as otherwise provided in this Section, any

person who violates any provision of this Act, ~~or any rule adopted under this Act~~ ~~regulation adopted by the Council~~, or any license or registration or term or condition thereof, or that violates any Council, Board, or court order entered ~~of the Council~~ under this Act, shall be liable for a civil penalty as provided in this Section. The penalties may, upon order of the Board ~~the Council~~ or a court of competent jurisdiction, be made payable to the Drycleaner Environmental Response Trust Fund, to be used in accordance with the provisions of this ~~the Drycleaner Environmental Response Trust Fund Act~~.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) Any person who violates subsection (a) of Section 60 of this Act by failing to pay the license fee when due may be assessed a civil penalty of \$5 per day for each day after the license fee is due until the license fee is paid. The penalty shall be effective for license fees due on or after July 1, 1999 and before June 30, 2011. For license fees due on or after July 1, 2011, any person who violates subsection (a) of Section 60 of this Act by failing to pay the license fee when due may be assessed a civil penalty, beginning on the 31st day after the license fee is due, in the following amounts: (i) beginning on the 31st day after the license fee is due and until the 60th day after the license fee is due, \$3 for each day during which the license fee is not paid and (ii) beginning on the 61st day

after the license fee is due and until the license fee is paid, \$5 for each day during which the license fee is not paid.

(2) Any person who violates subsection (d) or (h) of Section 65 of this Act shall be liable for a civil penalty not to exceed \$500 for the first violation and a civil penalty not to exceed \$5,000 for a second or subsequent violation.

(3) Any person who violates Section 67 of this Act shall be liable for a civil penalty not to exceed \$100 per day for each day the person is not registered to sell drycleaning solvents.

(4) Any person that violates subsection (k) of Section 40 of this Act may be assessed a civil penalty in an amount equal to 3 times the total in administrative assessments owed by that person under that subsection.

(c) (Blank). ~~The Council shall issue an administrative assessment setting forth any penalties it imposes under subsection (b) of this Section and shall serve notice of the assessment upon the party assessed. The Council's determination shall be deemed correct and shall serve as evidence of the correctness of the Council's determination that a penalty is due. Proof of a determination by the Council may be made at any administrative hearing or in any legal proceeding by a reproduced copy or computer print out of the Council's record relating thereto in the name of the Council~~

~~under the certificate of the Council.~~

~~If reproduced copies of the Council's records are offered as proof of a penalty assessment, the Council must certify that those copies are true and exact copies of records on file with the Council. If computer print outs of the Council's records are offered as proof of a determination, the Council Chairman must certify that those computer print outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Council's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. A certified reproduced copy or certified computer print out shall, without further proof, be admitted into evidence in any administrative or legal proceeding and is prima facie proof of the correctness of the Council's determination.~~

~~Whenever notice is required by this Section, the notice may be given by United States registered or certified mail, addressed to the person concerned at his last known address, and proof of mailing shall be sufficient for the purposes of this Act. Notice of any hearing provided for by this Act shall be given not less than 7 days before the day fixed for the hearing. Following the initial contact of a person represented by an attorney, the Council shall not contact that person but shall only contact the attorney representing that person.~~

(d) The penalties provided for in this Section may be recovered in a civil action instituted by the Attorney General

in the name of the people of the State of Illinois.

(e) The Attorney General may also, at the request of the Agency or the Department of Revenue, Council or on his or her own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act, any rule or regulation adopted under this Act, any license or registration or term or condition of a license or registration, or any Council, Board, or court order entered pursuant to this Act, or to require other actions as may be necessary to address violations thereof.

(f) Without limiting any other authority which may exist for the awarding of attorney's fees and costs, the Board ~~the Council,~~ or a court of competent jurisdiction, may award costs and reasonable attorney's fees, including the reasonable costs of expert witnesses and consultants, to the Attorney General in a case where the Attorney General has prevailed against a person who has committed a willful, knowing, or repeated violation of this Act, any rule or regulation adopted under this Act, or any license or registration or term or condition of a license or registration, or any Council, Board, or court order entered pursuant to this Act. Any funds collected under this subsection (f) in which the Attorney General has prevailed shall be deposited in the Drycleaner Environmental Response Trust Fund created in Section 10 of this Act.

(g) All final orders imposing civil penalties under this Section shall prescribe the time for payment of the penalties.

If any penalty is not paid within the time prescribed, interest on the penalty shall be paid, at the rate set forth in Section 3-2 of the Illinois Uniform Penalty and Interest Act, for the period from the date payment is due until the date payment is received. However, if the time for payment is stayed during the pendency of an appeal, interest shall not accrue during the stay.

(Source: P.A. 96-774, eff. 1-1-10; 97-332, eff. 8-12-11.)

(415 ILCS 135/69.5 new)

Sec. 69.5. Criminal penalties. In addition to all other civil and criminal penalties provided by law, any person who knowingly makes to the Agency or Department of Revenue an oral or written statement that is false, fictitious, or fraudulent and that is materially related to or required by this Act or a rule adopted under this Act commits a Class 4 felony, and each such statement or writing shall be considered a separate Class 4 felony. A person who, after being convicted under this Section, violates this Section a second or subsequent time commits a Class 3 felony.

(415 ILCS 135/77 new)

Sec. 77. Review of final decisions.

(a) All final Agency decisions made pursuant to this Act shall be subject to review in the manner provided for the review of permit decisions under Section 40 of the

Environmental Protection Act.

(b) Final administrative decisions made under this Act on or before the effective date of this Section by the Council, the Administrator of the Fund, or an administrative law judge of the Council are subject to review in accordance with the law in effect at the time of the decision, except that (i) the Director of the Agency shall conduct reviews to be performed by the Administrator of the Fund and (ii) the review of decisions of the Council and decisions of administrative law judges of the Council shall be conducted in accordance with the Administrative Review Law.

Section 15. The Drycleaner Environmental Response Trust Fund Act is amended by adding Sections 12 and 31 and changing Sections 45 and 85 as follows:

(415 ILCS 135/12 new)

Sec. 12. Transfer of Council functions to the Agency.

(a) On July 1, 2020, the Council is abolished, and, except as otherwise provided in this Section, all powers, duties, rights, and responsibilities of the Council are transferred to the Agency. On and after that date, all of the general powers necessary and convenient to implement and administer this Act are, except as otherwise provided in this Section, hereby vested in and may be exercised by the Agency, including, but not limited to, the powers described in Section 25 of this Act.

(b) No later than June 30, 2020, the Administrator of the Fund shall prepare on behalf of the Council and deliver to the Agency a report that lists:

(1) the name, address, and telephone number of each claimant who timely filed an application for remedial action account benefits by June 30, 2005, and is eligible for reimbursement from the Fund under Section 40 of this Act for costs of remediation of a release of drycleaning solvents from a drycleaning facility;

(2) the address of the drycleaning facility where the release occurred and the names, addresses, and telephone numbers of the owners and operators of the facility, as well as whether the drycleaning facility was an active or inactive drycleaning facility at the time that person applied for remedial action benefits under Section 40 of this Act;

(3) the deductible that applies with respect to the release at the facility and the amount of the deductible that has been satisfied;

(4) the total amount that has been reimbursed from the Fund for the release at the facility;

(5) costs approved for reimbursement from the Fund on or before June 30, 2020, but which have not been reimbursed from the Fund, for the release at the facility;

(6) for each year during which insurance coverage was provided under this Act, the name, address, and telephone

number of each person who obtained coverage and the names and addresses of the drycleaning facilities for which that person obtained coverage;

(7) the sites for which site investigations required under subsection (d) of Section 45 have been deemed adequate by the Council;

(8) the insurance claims under Section 45 of this Act that are pending; and

(9) the appeals under this Act that are pending.

(c) No later than June 30, 2020, all books, records, papers, documents, property (real and personal), contracts, causes of action, and pending business pertaining to the powers, duties, rights, and responsibilities transferred by this amendatory Act, including, but not limited to, material in electronic or magnetic format and necessary computer hardware and software, shall be transferred to the Agency, regardless of whether they are in the possession of the Council, an independent contractor who serves as Administrator of the Fund, or any other person.

(d) At the direction of the Governor or on July 1, 2020, whichever is earlier, all unexpended appropriations and balances and other funds available for use by the Council, as determined by the Director of the Governor's Office of Management and Budget, shall be transferred for use by the Agency in accordance with this Act, regardless of whether they are in the possession of the Council, an independent contractor

who serves as Administrator of the Fund, or any other person. Unexpended balances so transferred shall be expended by the Agency only for the purpose for which the appropriations were originally made.

(e) The transfer of powers, duties, rights, and responsibilities pursuant to this amendatory Act of the 101st General Assembly does not affect any act done, ratified, or canceled or any right accruing or established or any action or proceeding had or commenced by the Council or the Administrator of the Fund before July 1, 2020; such actions may be prosecuted and continued by the Attorney General.

(f) Whenever reports or notices are required to be made or given or papers or documents furnished or served by any person to or upon the Council or the Administrator of the Fund in connection with any of the powers, duties, rights, or responsibilities transferred by this amendatory Act of the 101st General Assembly to the Agency, the same shall be made, given, furnished, or served in the same manner to or upon the Agency.

(g) All rules duly adopted by the Council before July 1, 2020 shall become rules of the Board on July 1, 2020, and beginning on that date, the Agency is authorized to propose to the Board for adoption, and the Board may adopt, amendments to the transferred rules, as well as new rules, for carrying out, administering, and enforcing the provisions of this Act.

(h) In addition to the rules described above, the Board is

hereby authorized to adopt rules establishing minimum continuing education and compliance program requirements for owners and operators of active drycleaning facilities. Board rules establishing minimum continuing education requirements shall, among other things, identify the minimum number of continuing education credits that must be obtained and describe the specific subjects to be covered in continuing education programs. Board rules establishing minimum compliance program requirements shall, among other things, identify the type of inspections that must be conducted. The rules adopted by the Board under this subsection (h) may also provide an exemption from continuing education requirements for persons who have, for at least 10 consecutive years on or after January 1, 2009, owned or operated a drying facility licensed under this Act.

(i) For the purposes of the Successor Agency Act and Section 9b of the State Finance Act, the Agency is the successor to the Council beginning July 1, 2020.

(415 ILCS 135/31 new)

Sec. 31. Prohibition on renewal of contract with Fund Administrator. On and after the effective date of this amendatory Act of the 101st General Assembly, the Council shall not enter into or renew any contract or agreement with a person to act as the Administrator of the Fund for a term that extends beyond June 30, 2020.

(415 ILCS 135/45)

Sec. 45. Insurance account.

(a) The insurance account shall offer financial assurance for a qualified owner or operator of a drycleaning facility under the terms and conditions provided for under this Section. Coverage may be provided to either the owner or the operator of a drycleaning facility. Neither the Agency nor the ~~The~~ Council is ~~not~~ required to resolve whether the owner or operator, or both, are responsible for a release under the terms of an agreement between the owner and operator.

(b) The source of funds for the insurance account shall be as follows:

(1) ~~Moneys appropriated to the Council or~~ moneys allocated to the insurance account; ~~by the Council according to the Fund budget approved by the Council.~~

(2) moneys ~~Moneys~~ collected as an insurance premium, including service fees, if any; and ~~;~~

(3) investment ~~Investment~~ income attributed to the insurance account ~~by the Council.~~

(c) An owner or operator may purchase coverage of up to \$500,000 per drycleaning facility subject to the terms and conditions under this Section and those adopted by the Council before July 1, 2020 or by the Board on or after that date. Coverage shall be limited to remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at an insured drycleaning

facility, including third-party liability for soil and groundwater contamination. Coverage is not provided for a release that occurred before the date of coverage.

(d) An owner or operator, subject to underwriting requirements and terms and conditions deemed necessary and convenient by the Council for periods before July 1, 2020 and subject to terms and conditions deemed necessary and convenient by the Board for periods on or after that date, may purchase insurance coverage from the insurance account provided that ~~the drycleaning facility to be insured meets the following conditions:~~

(1) a site investigation designed to identify soil and groundwater contamination resulting from the release of a drycleaning solvent has been completed for the drycleaning facility to be insured and the site investigation has been found adequate by the Council before July 1, 2020 or by the Agency on or after that date . ~~The Council shall determine if the site investigation is adequate. This investigation must be completed by June 30, 2006. For drycleaning facilities that apply for insurance coverage after June 30, 2006, the site investigation must be completed prior to issuance of insurance coverage; and~~

(2) the drycleaning facility is participating in and meets all ~~requirements of a~~ drycleaning compliance program requirements adopted by the Board pursuant Section 12 of the Drycleaner Environmental Response Trust Fund Act

~~approved by the Council.~~

(3) the drycleaning facility to be insured is licensed under Section 60 of this Act and all fees due under that Section have been paid;

(4) the owner or operator of the drycleaning facility to be insured provides proof to the Agency or Council that:

(A) all drycleaning solvent wastes generated at the facility are managed in accordance with applicable State waste management laws and rules;

(B) there is no discharge of wastewater from drycleaning machines, or of drycleaning solvent from drycleaning operations, to a sanitary sewer or septic tank, to the surface, or in groundwater;

(C) the facility has a containment dike or other containment structure around each machine, item of equipment, drycleaning area, and portable waste container in which any drycleaning solvent is utilized, that is capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container, including: (i) 100% of the drycleaning solvent in the largest tank or vessel; (ii) 100% of the drycleaning solvent of each item of drycleaning equipment; and (iii) 100% of the drycleaning solvent of the largest portable waste container or at least 10% of the total volume of the portable waste containers stored within the

containment dike or structure, whichever is greater;

(D) those portions of diked floor surfaces at the facility on which a drycleaning solvent may leak, spill, or otherwise be released are sealed or otherwise rendered impervious;

(E) all drycleaning solvent is delivered to the facility by means of closed, direct-coupled delivery systems; and

(F) the drycleaning facility is in compliance with paragraph (2) of subsection (d) of this Section; and

(5) the owner or operator of the drycleaning facility to be insured has paid all insurance premiums for insurance coverage provided under this Section.

Petroleum underground storage tank systems that are in compliance with applicable USEPA and State Fire Marshal rules, including, but not limited to, leak detection system rules, are exempt from the secondary containment requirement in subparagraph (C) of paragraph (3) of this subsection (d).

(e) The annual premium for insurance coverage shall be:

(1) For the year July 1, 1999 through June 30, 2000, \$250 per drycleaning facility.

(2) For the year July 1, 2000 through June 30, 2001, \$375 per drycleaning facility.

(3) For the year July 1, 2001 through June 30, 2002, \$500 per drycleaning facility.

(4) For the year July 1, 2002 through June 30, 2003, \$625 per drycleaning facility.

(5) For subsequent years, an owner or operator applying for coverage shall pay an annual actuarially-sound insurance premium for coverage by the insurance account. The Council may approve Fund coverage through the payment of a premium established on an actuarially-sound basis, taking into consideration the risk to the insurance account presented by the insured. Risk factor adjustments utilized to determine actuarially-sound insurance premiums should reflect the range of risk presented by the variety of drycleaning systems, monitoring systems, drycleaning volume, risk management practices, and other factors as determined by the Council. As used in this item, "actuarially sound" is not limited to Fund premium revenue equaling or exceeding Fund expenditures for the general drycleaning facility population. Actuarially-determined premiums shall be published at least 180 days prior to the premiums becoming effective.

(6) For the year July 1, 2020 through June 30, 2021, and for subsequent years through June 30, 2029, \$1,500 per drycleaning facility per year.

(7) For July 1, 2029 through January 1, 2030, \$750 per drycleaning facility.

(e-5) (Blank). ~~If an insurer sends a second notice to an owner or operator demanding immediate payment of a past due~~

~~premium for insurance services provided pursuant to this Act, the demand for payment must offer a grace period of not less than 30 days during which the owner or operator shall be allowed to pay any premiums due. If payment is made during that period, coverage under this Act shall not be terminated for non payment by the insurer.~~

(e-6) (Blank). ~~If an insurer terminates an owner or operator's coverage under this Act, the insurer must send a written notice to the owner or operator to inform him or her of the termination of that coverage, and that notice must include instructions on how to seek reinstatement of coverage, as well as information concerning any premiums or penalties that might be due.~~

(f) If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium. The insurance premium is fully earned upon issuance of the insurance policy.

(g) Any ~~The~~ insurance coverage provided under this Section shall be subject to ~~provided with~~ a \$10,000 deductible ~~policy~~.

(h) A future repeal of this Section shall not terminate the obligations under this Section or authority necessary to administer the obligations until the obligations are satisfied, including but not limited to the payment of claims filed prior to the effective date of any future repeal against the insurance account until moneys in the account are exhausted. Upon exhaustion of the moneys in the account, any remaining claims shall be invalid. If moneys remain in the

account following satisfaction of the obligations under this Section, the remaining moneys and moneys due the account shall be deposited in the remedial action account ~~used to assist current insureds to obtain a viable insuring mechanism as determined by the Council after public notice and opportunity for comment.~~

(Source: P.A. 98-327, eff. 8-13-13.)

(415 ILCS 135/85)

Sec. 85. Repeal of fee and tax provisions. Sections 60 and 65 of this Act are repealed on January 1, 2030 ~~2020~~.

(Source: P.A. 93-201, eff. 1-1-04.)

(415 ILCS 135/15 rep.)

(415 ILCS 135/20 rep.)

(415 ILCS 135/30 rep.)

(415 ILCS 135/75 rep.)

(415 ILCS 135/80 rep.)

Section 20. The Drycleaner Environmental Response Trust Fund Act is amended by repealing Sections 15, 20, 30, 75, and 80.

Section 99. Effective date. This Act takes effect July 1, 2020.